

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

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|-------------------------|---|--------------------------------|
| GEORGE COWLIN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No.: 7:17-cv-1746-MHH-HNJ |
| |) | |
| CAPTAIN JOHN HUTTON and |) | |
| SERGEANT JAMES SEALEY, |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OPINION

On October 13, 2017, *pro se* plaintiff George Cowlin filed this action against defendants Willie Bennett, John Hutton, and James Sealey. (Doc. 1). Mr. Cowlin also moved to proceed *in forma pauperis*. The magistrate judge to whom this case is assigned along with the undersigned district judge granted that motion. (Doc. 3).

On October 26, 2017, the magistrate judge ordered Mr. Cowlin to amend his complaint. (Doc. 6). Mr. Cowlin filed an amended complaint on November 9, 2017, against Mr. Hutton and Mr. Sealey; Mr. Cowlin did not assert a claim against Mr. Bennett. (Doc. 7).

The magistrate judge filed a report on July 2, 2018, recommending that this Court dismiss this action without prejudice, pursuant to 28 U.S.C. § 1915A(b)(1), for failing to state a claim. (Doc. 9). The magistrate judge advised Mr. Cowlin of

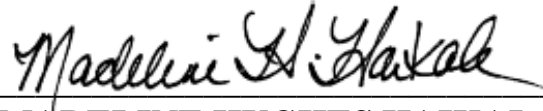
his right to file specific written objections within fourteen (14) days. (Doc. 9, p. 8). To date, Mr. Cowlin has not objected to the magistrate judge's report and recommendation, and Mr. Cowlin has not requested an opportunity to file an amended complaint with respect to his contention that prison officials handcuffed him to a wall for six or more hours. (Doc. 7, p. 5; Doc. 9, pp. 7-8).

A district court "may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). A district court reviews legal conclusions in a report *de novo* and reviews for plain error factual findings to which no objection is made. *Garvey v. Vaughn*, 993 F.2d 776, 779 n. 9 (11th Cir. 1993); *see also LoConte v. Dugger*, 847 F.2d 745, 749 (11th Cir. 1988); *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006).

Based on its review of the record in this case, the Court finds no misstatements of law in the report and no plain error in the magistrate judge's discussion of Mr. Cowlin's factual allegations in the amended complaint. The Court agrees with the magistrate judge -- Mr. Cowlin's allegation (which is assumed accurate at this early stage of the case) that prison officials cuffed him to a wall for at least six hours is very concerning. But Mr. Cowlin has not tried to correct the pleading deficiency that the magistrate judge identified with respect to that allegation. Therefore, the Court adopts the magistrate judge's report and accepts his recommendation.

The Court will issue a separate final order consistent with this memorandum opinion.

DONE this 13th day of November, 2018.

A handwritten signature in black ink, reading "Madeline H. Haikala". The signature is written in a cursive, flowing style. The first name "Madeline" is written in a larger, more prominent script, followed by "H." and "Haikala". The signature is positioned above a horizontal line.

MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE